IN THE HIGH COURT OF JUDICATURE AT BOMBAY

CIVIL APPELLATE JURISDICTION

WRIT PETITION NO. 4174 OF 2007

Pallavi Vilas Rawal
& Ors. .. Petitioners.

vs.

The Commanding Officer,
6th Maharashtra Girls
NCC, Bn. Kolhapur & Ors. .. Respondents.

Mr. Bhushan A. Walimbe for Petitioners.
Mr. R.C. Master for Respondent Nos. 1 to 3.
Mr. A.A. Kumbhakoni, Associate Advocate General
with Mr. R.M. Patne, AGP., for
Respondent Nos. 4 & 5.
Lt. V. Kalaivany, Offg. Commanding Officer,
6th (Mah.) Girls Battalion, NCC
Kolhapur present.

..

Coram: J.N. PATEL &,
A.A. SAYED, JJ.
Date: 5TH JUNE, 2007.

P.C.

. Heard the learned counsel for the parties.

2. Rule returnable forthwith. The learned counsel for the respondents waive service. Lt. V. Kalaivany, Offg. Commanding Officer, 6th (Mah.) Girls Battalion, NCC Kolhapur present.

3. The petitioners have approached this Court for seeking a direction against the respondents to conduct 'B Certificate' examination and issue certificates to the petitioners so as to enable them to claim additional weightage which is permissible under the MH - CET conducted by respondent no. 4 for the purpose of admission to Health Science Course with other ancillary reliefs.

4. It is the case of the petitioners that they are meritorious and bright girls who have prosecuted their studies in Karmaveer Bhaurao College, Islampur. They are all students of science stream. It is their case that while prosecuting their studies in the higher secondary school certificate examination which is conducted by the respondent board, which is the required qualification for appearing for MH - CET conducted by respondent no. 4, the petitioners have opted for NCC (Senior Wing) training which entitles them, on successful completion of the training programme, to appear for examination and on being declared successful obtain 'B Certificate' which is

given due weightage by respondent no. 4 while considering their cases for granting admission to medical health science course. It is submitted that though 'B Certificate' examination was conducted for the 19th Maharashtra Boys battalion, Kolhapur, the same was not done in case of girls battalion i.e. 6th Maharashtra Girl Battalion. The Respondent No. 1 proposed to conduct 'B Certificate' examination for girls battalion on 26th and 27th February, 2007 and as the same was clashing with the date of the HSC Board examination, the girl cadets/students were unable to attend the examination and requested the respondent no. 1 to allow them to put off the 'B Certificate' examination after the HSC examination is over. Such a request was not entertained by respondent no. 1 and, therefore, they were deprived of an opportunity to appear for 'B Certificate' examination which would definitely give them an advantage of the weightage which is being given to the candidates appearing for MH - CET having passed 'B Certificate' examination. The petitioners, therefore, made several representations to respondent no. 1 to conduct 'B Certificate' examination but they have failed to do so and, therefore, the petitioners have approached this Court.

5. On being served with notices, the respondent no. 1 has filed affidavit of the Officiating Commanding Officer of 6th (Mah.) Girls Bn. NCC, Shivaji University, Kolhapur. In so far as respondent

no. 1 is concerned, they have no quarrel on the issue of the petitioners' inability to appear for the 'B Certificate' examination though initially it was submitted that the petitioners being students of junior college were not eligible to join NCC, Senior Wing, and appear for 'B Certificate' examination, but, then it has been fairly conceded that as the respondent no. 1 has admitted them in the Senior Wing in spite of their rules not permitting it, they have given up this issue.

6. The learned counsel appearing for respondent no. 1 submitted that though the candidates like the petitioners have failed to appear for the examination conducted by the Directorate of NCC for 'B Certificate' examination on the scheduled date, they are permitted to conduct the same for the benefit of the petitioners on 12.6.2007 of which due notification has been issued and communicated to all the concerned Principals by the Incharge Commanding Officer of the 6th Maharashtra Girls Bn NCC by letter dated 31.5.2007. The said letter is taken on record and marked "X" for identification. The learned counsel for respondent no. 4 has no objection to accept the provisional certificate from candidates like the petitioners of having passed 'B Certificate' examination and taking into consideration the same if the same is submitted on or before 18th June, 2007 by 5.30 p.m. to the competent authority. No such certificate shall be accepted by the competent authority on or after

19.6.2007. Hence, the following order is passed :-

ORDER

i) Reexamination for 'B Certificate' to be conducted at Kolhapur on 12th June, 2007 in terms of order dated 31.5.2007.

ii) The result of the examination to be declared on 16.6.2007.

iii) On 16.6.2007 itself provisional certificates to be issued to the concerned college authorities.

iv) Each institution named in order dated 31.5.2007 to depute a special messenger to collect the provisional certificates from concerned NCC authorities.

v) Each institution shall hand over to the individual student provisional certificates on 16.6.2007 itself.

vi) On or before 18.6.2007 by 5.30 p.m. candidates should hand over the provisional certificates to the competent authority.

vii) On or after 19.6.2007 no such certificate shall be accepted by the competent authority.

7. Rule is made absolute in the aforesaid terms. No order as to costs.

8. The parties to act upon the copy of this order duly authenticated by the Private Secretary of this Court.

(J.N. Patel, J.)

(A.A. Sayed, J.)